

CALIFORNIA COASTAL COMMISSION

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Th10a



Prepared June 13, 2011 (for June 16, 2011 hearing)

To: Commissioners and Interested Persons

From: Dan Carl, District Manager
 Madeline Cavalieri, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Th10a
 CDP Application Number 3-10-036 (Salt Building Remodel)**

The purpose of this addendum is to modify the staff report (dated prepared May 26, 2011) for the above-referenced item. Specifically, in the time since the staff report was distributed, the applicant informed staff that they are unable to install the steel pilings with a vibratory hammer, as they had previously indicated and proposed, because the project engineer determined that using a vibratory hammer in this case is not feasible due to the existing riprap that is at the site. Instead, the applicant now proposes to use an impact hammer. Driving piles with a vibratory hammer has been identified as a preferred pile installation method because it is effective for minimizing underwater acoustic impacts on wildlife, and the Commission typically does not require additional pile installation BMPs related to acoustical impacts when vibratory hammers are proposed. Thus, acoustical BMP special conditions were not included in staff's recommendation for this project. However, driving pilings with an impact hammer does have the potential to cause impacts on wildlife due to amplified noise levels, and therefore, special conditions are necessary to restrict and require monitoring of underwater noise levels to ensure the project does not exceed thresholds that could harm wildlife. Thus, the staff report is modified as shown below (where applicable, text in underline format indicates text to be added, and text in strikethrough format indicates text to be deleted):

1. Modify third paragraph on page 9 of the staff report:

...Finally, the new pilings would not directly impact eelgrass or other sensitive marine resources, and special conditions of approval minimize potential indirect impacts on marine resources by ~~requiring the use of a vibratory hammer for installation~~ restricting underwater noise generated from pile driving activities, which ~~minimizesing~~ any potential impacts on ~~marine mammals~~ wildlife during project construction, and requiring water quality BMPs for construction, to minimize water quality impacts and their resultant impacts on marine resources (see Biological Resources and Water Quality section below)...

2. Modify third paragraph on page 13 of the staff report:

...Fortunately, Special Condition 3, requiring construction BMPs to reduce water quality impacts, would also serve to minimize any indirect impacts to eelgrass so that they would not be significant. ~~In addition, the use of a vibratory hammer required by Special Condition 3(f) would minimize any~~



~~potential acoustic impacts to wildlife. Specifically, vibratory hammers are used when other forms of pile driving lead to unacceptable levels of underwater noise, and should ensure that such underwater noise is appropriately minimized and shouldn't exceed maximum noise thresholds typically applied by the Commission.⁶~~

In addition, underwater acoustic impacts associated with pile driving have the potential to disturb marine mammals and to adversely alter the behavior of fish in the immediate vicinity of the project site, or cause them to avoid the construction area temporarily. In previous permit actions involving pile driving projects in coastal waters (including CC-074-05 (Caltrans) and CDP 1-06-022 (Caltrans)), the Commission has found that high pressure level impacts resulting from loud noise can, in some instances, kill fish and marine mammals and that the appropriate threshold for minimizing impacts is to limit underwater noise levels to no more than 187 decibels sound exposure level (dB SEL) accumulated and 208 peak dB. These thresholds were determined by the interagency "Fisheries Hydroacoustic Working Group" (made up of representatives from Caltrans, the Army Corps of Engineers, U.S. Fish and Wildlife Service, NOAA Fisheries and the California Department of Fish and Game) and have generally been used as appropriate acoustical standards in the marine environment absent additional site specific and/or new research data on the subject, including in recent Morro Bay cases (CDP 3-08-025 (Great American Fish Company et al) and CDP 3-08-052 (Morro Bay Conference Center)). Thus, in order to appropriately minimize adverse acoustical impacts to wildlife, Special Condition 3(f) requires underwater noise generated by pile driving activities to be minimized to the maximum extent feasible, and that such noise not exceed an accumulated 187 dB SEL as measured 5 meters from the source, and at no time exceed a peak above 208 dB at 10 meters from the source. If construction noise exceeds the above thresholds, then alternative methods of pile driving (including, but not limited to, press-in pile placement, drilling, dewatered isolation casings, etc.) or other sound mitigation measures (including, but not limited to sound shielding and other noise attenuation devices) shall be used as necessary to achieve the required dB threshold levels. Further, Special Condition 3(f) requires that a pile driving plan and hydro-acoustical monitoring plan be developed and adhered to, to ensure that underwater noise generated by pile driving activities is minimized and does not exceed the specified limits.

Finally, to avoid bird strikes....

3. Modify special condition 3f on page 19 of the staff report:

f. Pilings. ~~The new pilings and piling sleeve shall be made from steel. Pilings shall be installed using a vibratory hammer.~~ Construction barges shall be floating at all times and shall only operate at tides high enough so that the barge does not rest against the bottom of the bay. The Construction Plan shall include a pile driving plan and monitoring program designed to ensure that underwater noise generated by pile driving activities is minimized to the maximum extent feasible and does not exceed (1) an accumulated 187 dB SEL as measured 5 meters from the source; and (2) peak dB above 208 dB as measured 10 meters from the source. The plan shall provide for a hydroacoustical monitor to ensure that underwater noise generated by pile driving activities does not exceed such limits. The plan shall also provide for additional acoustical BMPs



to be applied if monitoring shows underwater noise above such limits (including, but not limited to, alternative pile driving methods (press-in pile placement, drilling, dewatered isolation casings, etc.) and additional noise dampening measures (sound shielding and other noise attenuation devices)).



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Staff Report prepared by:	M.Cavalieri
Staff Report approved by:	Dan Carl
Hearing date:	06/16/2011

COASTAL DEVELOPMENT PERMIT APPLICATION

Application number3-10-036, Salt Building Remodel

Applicant.....Abba Imani

Project locationAlong the Morro Bay Embarcadero (lease sites 65, 66, 65w, and 66w) at 571 Embarcadero Road (APN 066-137-001) adjacent to and over Morro Bay in the City of Morro Bay, San Luis Obispo County.

Project descriptionRemodel of an existing two-story commercial building, removal of an existing bayside indoor patio, installation of a new lateral access way and public deck, and repair and expansion of an existing boat dock.

Local ApprovalsConditional Use Permit UP0-260, City of Morro Bay City Council, June 14, 2010.

File documents.....City of Morro Bay Certified Local Coastal Program (LCP).

Staff Recommendation ..Approval with Conditions

A. Staff Recommendation

1. Summary of Staff Recommendation

The proposed project is to remodel an existing, visitor-serving commercial building, known as the Salt Building, on the Embarcadero in the City of Morro Bay. The project includes minor repairs to the existing building and the existing floating dock as well as the addition of a new lateral access way. The project site is located directly adjacent to Morro Bay, in an important visitor-serving area. Morro Bay has significant visual resources, including Morro Rock, the Bay itself and the working harbor, and the Bay contains significant biological resources, including wetlands and other habitat for sensitive species.

The Coastal Act requires public access to the shoreline to be maximized and includes strong protections for the visual and biological resources present at this location. The proposed project would enhance public access at the site by improving an important visitor-serving development and providing a bayfront lateral access way where no bayfront lateral access currently exists. However, as proposed, the new lateral access would be located landward of a proposed public seating area, which would be enclosed by a windscreen. The proposed design would limit the public's ability to fully enjoy the



shoreline at this location because the access would not be directly adjacent to the shore and because the windscreen would create a barrier to the significant and important visual resources that can be seen from the site. The proposed design also includes demolishing the existing restaurant patio, which currently enhances the rustic fishing village atmosphere, resulting in negative impacts to the community character of the area.

The Applicant has agreed to modify the proposed project to address these inconsistencies. As modified, the project would be designed so that the lateral public access would be directly adjacent to the Bay and would not be enclosed by a windscreen. In addition, instead of demolishing the existing restaurant patio, its size would be reduced, making room for the lateral access while retaining the character of the building. In addition to these modifications, staff is also recommending conditions to ensure the public access is built as modified and the project includes appropriate public use parameters and signage, and to ensure that the boat slips are available for commercial and recreational boats and not used for private residential use. Further, staff recommends conditions protecting biological resources and water quality, which have the potential to be impacted by construction activities and the completed development.

As modified and conditioned, staff recommends that the Commission find that the proposed project complies with the public access, visual, biological resources and water quality requirements of the Coastal Act, and that it approve a CDP with conditions for the project. The necessary motion is found directly below.

2. Staff Recommendation on Coastal Development Permit

Staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below.

Motion: I move that the Commission approve coastal development permit number 3-10-036 pursuant to the staff recommendation. I recommend a yes vote.

Staff Recommendation of Approval: Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve the Permit: The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.



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B. Findings and Declarations

The Commission finds and declares as follows:

1. Project Background, Location, and Description

Embarcadero History

Until the mid-1940's, most of the small community of Morro Bay was built on the bluff tops above the Bay's tidal flats. Between 1942 and 1945, the north and south breakwaters at the entrance to the Morro Bay harbor, two "T"-piers, and the inner harbor bulkhead were constructed for a Navy amphibious base. A navigational channel was dredged and the spoils deposited behind the inner harbor bulkhead to create a fill area along the Bay that became known as the Embarcadero. In the late 1940's the Navy base, including all waterfront facilities, was sold to San Luis Obispo County. Buildings began to be constructed on the Embarcadero, and various docks and piers were occupied by a growing fleet of commercial fishing boats. In 1964, the City of Morro Bay incorporated and assumed jurisdiction over the County's waterfront land and facilities, including the Embarcadero. Trusteeship of state tidelands was also transferred to the City at that time.

Morro Bay and the Embarcadero in particular, are major tourist attractions and prime coastal visitor-serving destinations with an estimated 1.5 million visitors annually. The Embarcadero is now largely



developed with a variety of visitor-serving (overnight units, restaurants, gift shops, etc.) and coastal-related land uses (i.e., kayak rental, commercial and recreational fishing services, etc.). Parcels on the bayside of the Embarcadero are located on state tidelands and are leased to individual lessees by the City through the City's proxy relationship to the State Lands Commission. The Coastal Commission retains permitting jurisdiction on all such tideland properties, including the fill areas along the Embarcadero, and including the property that is the subject of this permit application. As a result, the standard of review for the proposed project is the Coastal Act, although the certified Morro Bay LCP can provide non-binding guidance.

Project Location

The project is located near the southern end of the Embarcadero, at 571 Embarcadero Road (see Exhibit A). Embarcadero Road is the first public through road and it parallels the Morro Bay estuary and the City's commercial and recreational harbor. This location, at the southern end of the Embarcadero, maintains more of the fishing village atmosphere than does the more industrial area at the northern Embarcadero, but all development along the Embarcadero is focused on visitor-serving and retail uses. The project is located west of Embarcadero Road and south of Marina Street within Planning Area 3 of the City of Morro Bay Waterfront Master Plan (WMP), which includes the area from the bluff to the waterfront between Beach Street and South Street. The site is zoned Waterfront (WF), with a Planned Development (PD) overlay and a Design (S.4) overlay. The site is 6,300 square feet, with 45 linear feet of bay frontage, and comprises four lease sites (65, 65w, 66, and 66w), two of which extend out into the Bay.

The site is occupied by an existing, two-story commercial building, known as the Salt Building, which was designed and constructed by a local architect, James Maul, and completed in 1971, before Prop. 20 (the Coastal Initiative (1972) and the Coastal Act (1976)). The building has a unique layout, which invites pedestrian movement through the outdoor walkway that extends through the middle of the site, from the street to the Bay. There is a visually prominent sign at the front of the building, which identifies this local landmark and adds character to the waterfront area. On the ground floor, there are two retail establishments and a restaurant, and on the second floor, there is office space. On the bayside of the site, the restaurant has an enclosed patio, used for table seating, which extends out over the Bay. The patio has strong waterfront character, with a wide-slat wood floor, wood framed glass windows looking out over the water, and wooden tables and benches. The patio area is a prominent feature of the small restaurant, providing more than a third of the restaurant's seating area (with room for 20 people), and drawing patrons to the restaurant. There is a staircase leading from the restaurant patio area down to a gangway that connects to a finger dock with room for three boats (see site photos in Exhibit D). The dock is subleased by the Applicant (who is also the lessee) for long-term slip space use. There is currently no lateral access across the bayside of this site or at the properties to the north or south. However, the Commission approved redevelopment of the site to the north that would include new vertical and lateral access ways.¹

¹ See CDP 3-07-048 and CDP waiver 3-11-030-W (Held/Viole).



Project Description

The proposed project includes three components. First, it includes a minor remodel of the existing commercial building. Most of the remodeling work entails minor repair, maintenance, and improvement. No expansion of the building is proposed and its appearance, including the prominent street sign, would remain the same. This portion of the project includes increasing the width of the street-fronting sidewalk from 5 feet to 8 feet.

Second, the existing restaurant patio would be removed and replaced with an 8-foot wide lateral access way, and an approximately 9-foot by 30-foot public seating area. To support the increased decking, the project includes installing one new steel piling and sleeving one existing creosote piling with steel. The lateral access way would connect to future walkways to the north and south, when those properties are developed. The deck would be enclosed by a windscreen and would contain a seating area with tables that could be used by the general public or by restaurant patrons and public access signs would be posted at various locations (see proposed site plan in Exhibit B).

Finally, the project includes repair and a minor expansion/improvement of the existing two-finger boat dock. The existing staircase and landing used to access the dock would be reconfigured to accommodate the new lateral access way, the gangway would be replaced, and one of the fingers would be widened by one-foot to accommodate the new configuration. The boat slips are currently subleased to members of the public for long-term use and no change in this use is proposed.

2. Coastal Development Permit Determination

A. Public Access, Visual Resources and Community Character

The project involves remodel and expansion of an existing visitor-serving commercial building and docks within public trust lands granted to the City of Morro Bay and leased to private individuals so that they may be developed with harbor-dependent uses and visitor-serving public access and recreation amenities. Several significant visual features, including Morro Rock, the sandspit, and the Bay itself enhance the site and the working waterfront gives the area strong community character. Given the significance of this shoreline location, any development at the site has the potential to cause adverse impacts to public access and recreation, as well as to the area's significant visual resources and community character.

1. Coastal Act Policies

Coastal Act Sections 30210 through 30224 require that development maximize public recreational access, provide visitor-serving recreational facilities, protect oceanfront land for recreational use and development, encourage recreational boating facilities, and in general establish that coastal-dependent, visitor-serving, and public recreational access developments have priority over other types of uses and development. In particular:

Section 30210: In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational



opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211: *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212(a): *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*

Section 30213: *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

Section 30220: *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221: *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Section 30224: *Increased recreational boating use of coastal waters shall be encouraged, in accordance with this division, by developing dry storage areas, increasing public launching facilities, providing additional berthing space in existing harbors, limiting non-water-dependent land uses that congest access corridors and preclude boating support facilities, providing harbors of refuge, and by providing for new boating facilities in natural harbors, new protected water areas, and in areas dredged from dry land.*

Coastal Act Section 30233 specifically identifies the criteria for when fill of coastal waters may be allowed, including fill for the proposed new piling to accommodate the new lateral access, and the expanded floating dock. In this case, the fill would be allowable if it were to provide for new or expanded boating facilities and a new public recreational deck. Coastal Act Section 30233 states:

Section 30233: *(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:*

...(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new



or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

Section 30240(b) protects recreational areas such as the site and the Bay itself against development that would inappropriately degrade such areas, or that would be incompatible with them. Section 30240(b) states:

Section 30240(b): *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The Coastal Act also protects special communities that are popular visitor destinations, like Morro Bay and the Embarcadero. Coastal Act Section 30253(5) states that:

Section 30253(5). *Where appropriate, protect special communities and neighborhoods, which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

In addition, the Coastal Act includes strong protections for visual resources and scenic views such as the views of Morro Bay, the sandspit, and Morro Rock, and it protects the community character of this area, which includes this unique building and the surrounding fishing village atmosphere. Coastal Act Section 30251 states:

Section 30251. *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

Although not the standard of review, the LCP's zoning standards also detail specific uses and guidelines for development within the waterfront (WF) zone applicable to this site. Applicable sections are as follows:

17.24.170 Waterfront (WF) District. Purpose. *The purpose of the waterfront district is to provide for the continued mixture of visitor-serving commercial and recreational and harbor-dependent land uses in appropriate waterfront areas, as provided in this chapter.*

17.24.170(B). Special WF zone standards... 9. Public Access Requirements. *Public access from the nearest public roadway to the shoreline and along the bay front shall be provided in new development projects...*



Finally, the LCP's Waterfront Design Guidelines contain policies requiring protection of public views along the Embarcadero and of the unique geographic features surrounding the City's working harbor including Morro Rock, the Bay and sandspit. Through the Waterfront Master Plan, the LCP provides clear guidance with respect to visual compatibility of new development with both existing development and surrounding natural features. New development must incorporate an architectural character consistent with the maritime theme of the waterfront, be pedestrian oriented in form and scale, and avoid excessive height and massing.

In sum, the Coastal Act policies (and LCP guidance) applicable to the site clearly require that development here maximize public recreational access and visitor-serving opportunities. Given that it is a public property, and includes development over and into public trust resources of the Bay itself, this direction is only magnified, and it is clear that a significant and extraordinary public benefit is required. In other words, the Coastal Act requires that this site be developed with truly exceptional public recreational/visitor-serving access components that are sited and designed in such a way as to provide maximum public benefit, and dictates that anything less cannot be found consistent with the Coastal Act.

2. Analysis

As discussed above, the location of the site over and adjacent to Morro Bay makes it a critical location for public access and recreation amenities. The site is in the prime visitor-serving area of the City, directly adjacent to the shoreline, with views of Morro Rock, Morro Bay, the sandspit and waterfront development, including boat docks and fishing and recreational boats. The Salt Building is a uniquely designed, local landmark that serves visitors with two retail establishments and a restaurant and the proposed new lateral access and public seating area would increase the opportunity for public access at the site. However, as proposed, the project includes demolishing the existing restaurant patio, which adds character to the site, and the design of the lateral access way does not maximize public access to and along the Bay.

Lateral Access and Patio. As discussed above, the project proposal includes demolishing the existing restaurant patio and replacing it with a new lateral access way and public seating area. This would provide for important lateral access, which would be a segment of the designated California Coastal Trail, and is designed to link to future lateral access to the north and south of the site, when those sites develop. However, the proposed access falls short of Coastal Act requirements in several ways. First, the access would be landward of the proposed public seating area, as opposed to being immediately adjacent to the Bay, and therefore, it would not maximize physical or visual public access to the shoreline, as required by the Coastal Act. In addition, the proposed seating area would be enclosed by a windscreen, which would obstruct important public views, and give visitors an enclosed feel, contrary to the surrounding rustic fishing village character and further diminishing the public and visual access value of this important public access way. Finally, the proposed access would be only eight feet wide, and although that is the minimum required width pursuant to the LCP, the Commission has generally been requiring ten feet of lateral access in Embarcadero projects in order to maximize public access at this important visitor-serving area.



To address these inconsistencies, Commission staff and the Applicant explored ways to redesign the lateral access, and the Applicant has agreed to relocate the access to the bay side of the site, while retaining a portion of the existing restaurant patio. As modified, the project would include removing approximately half of the existing restaurant patio and replacing that building area with the lateral access. The deck would be extended with support from the one new steel piling currently proposed, as well as a second new steel piling that would be necessary new steel piling to ensure the project aligns with the lateral access approved at the adjacent site to the north, and the access would be expanded from eight to nine feet wide (see modified site plan in Exhibit C). As modified, the lateral access would be located directly adjacent to the Bay and it would not be enclosed with the originally proposed windscreen. In addition, the existing restaurant patio, which adds character to the site, would be retained, but reduced in size to accommodate the lateral access, and the modified lateral access would align with the project to the north.²

Pursuant to Coastal Act Section 30233, fill of coastal waters, such as for the installation of the two new pilings, is only allowed in support of certain uses. In addition, a fill project can only be approved if it is the least environmentally damaging alternative and it incorporates feasible mitigation measures to minimize adverse environmental impacts. In this case, the new pilings are proposed to support a new public recreational pier that will provide lateral public access across the project site, and is therefore an allowed use pursuant to Section 30233(a)(3). There project alternatives are limited in this case, due to the constraints of the existing development on site that will be retained. One alternative would be to use a cantilever support system to allow for the construction of the deck without the need for new pilings. However, this alternative was rejected because it is not structurally feasible. In addition, the no project alternative is not feasible because it would result in eliminating the new lateral public access that is proposed as part of the project, inconsistent with the public access and recreation policies of the Coastal Act. Therefore, the proposed two new pilings represent the least environmentally damaging alternative. Finally, the new pilings would not directly impact eelgrass or other sensitive marine resources, and special conditions of approval minimize potential indirect impacts on marine resources by requiring the use of a vibratory hammer for installation, minimizing any potential impacts on marine mammals during project construction, and requiring water quality BMPs for construction, to minimize water quality impacts and their resultant impacts on marine resources (see Biological Resources and Water Quality section below). Thus, the project is consistent with the requirements of Coastal Act Section 30233.

Although the Commission typically requires ten-foot wide lateral access along the Embarcadero, this project is for minor remodeling of an existing constrained site, and the bay-ward expansion of the site is limited by the existing pilings and floating boat dock. Therefore, in this case, especially given that the project is to remodel this existing, important visitor-serving development, as opposed to demolishing and rebuilding the site, the width of the access is adequate and appropriate. In addition, the character of the Embarcadero is enhanced by the sometimes uneven flow of the bayside access, bringing pedestrians through various alcoves within and along the bayfront development, and the design of the modified access would reflect and contribute to that character. Therefore, as modified, the lateral access and patio

² The project associated with CDP 3-07-048 and CDP waiver 3-11-030-W would align exactly with the modified access way associated with the Salt Building project.



would maximize public access, protect important visual resources, and maintain the character of the area, consistent with the Coastal Act. Special Condition 1 requires revised final plans to ensure the project is carried out as modified.

Boat Dock. The proposed project includes replacing the staircase down to the existing floating dock, as well as replacing the gangway, and expanding the width of one of the boat dock fingers by one-foot, to accommodate the new configuration. No new pilings would be required to support the expanded dock. The existing dock slip space, which accommodates three boats, is subleased to members of the public for long-term use. Recreational boaters need both long-term slip space and short-term slip space. Short-term slip space is used by transient boaters who are traveling through the area and stopping in Morro Bay. The City's Harbor District staff estimates that visitors using short-term slip space in Morro Bay spend an average of two to three nights. Long-term space would most likely be used by nearby residents who want to keep their recreational boats in the water over longer periods of time to use at their convenience.

According to the City's Harbor District, Morro Bay has plentiful availability of short-term, transient use slip space, but long-term slip space, like that provided by the project site is in short supply. In terms of short-term slip space, the City has the following accommodations: the City has moorings for 10 to 20 boats within the bay, between channel markers 10 to 12; the City-owned T-piers are available for overnight accommodations on a first-come, first-serve basis and have room for several hundred boats each; there is also a pier at the Tidelands Park, which is generally available only for day use, but would be used by the Harbor for overnight accommodations in an emergency, and; the City has an agreement with the Morro Bay Yacht Club to make short-term, overnight slip space available to the public, and they recently reported accommodating approximately 200 boats per year. In addition, the Harbor Business Manager, who has been working with the Harbor District for over 20 years, stated that she has have never seen the Harbor turn away a transient boater.³

Therefore, due to the availability of short-term slip space for day use and transient overnight accommodations, and due to the limited availability of longer term slip space, at this time, it is appropriate to allow the continued use of the project's three slip spaces for long-term use. Such long-term use increases the public's opportunity for boating in Morro Bay and therefore complies with the public access and recreation policies of the Coastal Act. However, although it is clear that there is currently a plentiful supply of short-term slip space in Morro Bay, this may not always be the case, and therefore, the question of long-term versus short-term slip space should be re-visited, including: if, or when, this boat dock is replaced or expanded in the future; when the lease is updated/renewed; when CDPs are necessary for site improvements, etc.. In addition, although no residential use of the dock is proposed, the Commission is aware that in some areas, long-term slip space has been used for residential purposes. Residential use of the modified docks under this project is not allowed pursuant to Coastal Act Section 30233, and the project can only be approved for expanded boating and public access opportunities. On this point, the parameters for dock use are not well defined, including to ensure that any fees are kept low and commensurate with standard rates for the area, and including in terms of

³ Personal Communication between Madeline Cavaliere, Coastal Planner, and Sue Lichtenbaum, City of Morro Bay Harbor District, April 4, 2011.



public access to the docks themselves. The dock facility can be found consistent with the Coastal Act if it includes parameters to ensure that it is clearly an integral part of the overall development (including by integrating docking use with overall operations of the site), it is clearly provided and available for general public and/or recreational/commercial fishing/service use, any fees are minimized, and provided it is not available for residential use (see Special Conditions 2b and 5).

Public Access Use Parameters and Signing. The project does not include an access management plan that clearly describes the manner in which public areas are to be available to the public. In addition, although the project proposal includes providing public access signs at both ends of the lateral access way, additional signs are necessary to make the public aware of the existing public vertical access through the center of the building and the boat docks, and because of the project modifications described above, the location of the signs as originally proposed needs to be modified to fit the new site design. The Commission is aware of the pitfalls, large and small, that can accrue when such parameters are not clearly laid out at the time of project approval, and it is critical in this case that access is properly provided and maintained over time. In order to achieve the maximum public access required by the Coastal Act, especially due to the unique layout of this existing visitor-serving building, adequate signs informing the public about the access parameters are necessary. Accordingly, this approval is conditioned for an access management plan designed to ensure maximum public recreational access benefit in perpetuity, where the primary objective is to maximize public recreational access at the site (including to the vertical and lateral access ways), to provide clear and informative signage (including interpretive signage), and to ensure that the project's public access features are available for free, general public use during daylight hours (and during all non-daylight hours when the retail components of the approved project are open) 365 days per year (see Special Condition 2).

3. Conclusion

As modified and conditioned by this permit, the project will enhance existing and provide new public recreational access opportunities on the Morro Bay Embarcadero by restoring this important visitor-serving building and providing lateral public access along approximately 45 feet of bay frontage in the vicinity of the Embarcadero's commercial fishing/working harbor, where no lateral access currently exists. Project modifications and permit conditions refine and secure the public access elements at the site while protecting community character and visual resources. In sum, and only as modified and conditioned, the project represents a significant public recreational access project that protects visual resources and community character, and as such, the project can be found consistent with the Coastal Act policies discussed in this finding.

B. Biological Resources and Water Quality

1. Applicable Policies

Coastal Act Sections 30230, 30231 and 30240 state:

***Section 30230.** Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain*



the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231: *The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30240: *...(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

2. Analysis

The project site is located immediately adjacent to and over the waters of Morro Bay. Morro Bay and the surrounding area provide a variety of biological habitats, including coastal wetlands, intertidal mud/salt flats, rocky subtidal and intertidal zones, riparian corridors and woodlands. All of these habitats provide highly productive, diverse and dynamic ecosystems. Morro Bay includes the largest eelgrass beds in the southern part of the state, with dense stands located in the lower intertidal areas and shallow channels within the Bay. Eelgrass provides a complex and highly productive ecosystem, serving as a spawning and nursery ground for many species of fish (e.g., halibut, English sole, topsmelt, shiner perch, speckled sanddab, plainfin midshipmen, arrow and bay goby), and larger invertebrates (e.g., bay shrimp, spiny cockle, nudibranchs, cancer crabs, yellowshore crab). In addition, the Bay serves as a critical link of the Pacific Flyway by providing important habitat for resident and migrating shorebirds and waterfowl.

The project includes installation of two new steel pilings⁴ and sleeving an existing creosote treated wood piling with steel. In terms of the new steel pilings, this pile type is preferable to chemically treated wood, and should have minimal impact on the marine environment. In terms of the existing pile, the Commission is generally working with local governments and others to avoid the use of creosote⁵ (and similar chemical compound) treated wood pilings due to their effect on the marine environment.⁶ This

⁴ One proposed as part the proposed project, and a second necessary to support the modified lateral public access way.

⁵ Creosote is added to the wood to discourage organisms (such as wood borers) that may impair the wood product's integrity from coming into contact with the wood product. Creosote is a pesticide derived from coal tar that contains over 160 detectable hydrocarbon compounds. It is a hydrophobic, or relatively insoluble compound, and is therefore used in marine applications because it will not wash away.

⁶ For example, studies have demonstrated that creosote is partially soluble, and is mobile in aquatic environments. Even the small amounts of creosote constituents that dissolve and mobilize in water over time can have adverse affects on marine resources. Pilings



can be difficult in cases, such as this, where there are existing creosote treated pilings in place. In such cases where treated-wood piles are being left alone, it is thought that the impacts can be reduced by wrapping the piles. The principal behind the use of wrapping (in this case, with a steel sleeve), is to add an additional layer of protection to marine wood products; it not only protects the pilings from wear caused by the abrasion of boats, but also helps to prevent infestation by wood borers and helps contain contaminants. Thus, the proposed steel sleeve serves to reduce impacts compared to existing conditions, and continued use of the existing creosote piling can be found consistent with the Coastal Act in this case, since it is not being replaced.

Construction activities associated with the development of the site could potentially result in adverse impacts to the biological resources and water quality of Morro Bay. In particular, these activities include demolishing a portion of the existing restaurant patio, constructing the lateral access way and installing two new steel pilings and one steel piling sleeve. Fortunately, impacts to water quality during construction can be readily minimized through the development and implementation of a construction plan that, at a minimum, includes identification of all construction and staging areas, all construction methods and timing, and all other construction BMPs (i.e., silt curtains, washing/refueling areas, spill containment measures, site cleanup procedures, waste disposal, etc.), including those designed to prevent release of construction-related materials, liquids, soil, and debris into the Bay (see Special Condition 3). To ensure maximum public notification and good construction relations, the construction plan must also be kept on site and all persons involved in construction must be briefed on the content and requirements of it, and a construction coordinator must be designated and available to answer questions and also investigate complaints and take remediation action if necessary, 24 hours per day for the duration of the project (see Special Condition 3(e)).

With regard to more specific biological resources, the Applicant had a biological survey performed to identify any eelgrass in the project vicinity. The survey shows that no eelgrass would be directly impacted by construction of the project. However, there is a potential for indirect impacts to eelgrass habitat from the construction activities discussed above. Fortunately, Special Condition 3, requiring construction BMPs to reduce water quality impacts, would also serve to minimize any indirect impacts to eelgrass so that they would not be significant. In addition, the use of a vibratory hammer required by Special Condition 3(f) would minimize any potential acoustic impacts to wildlife. Specifically, vibratory hammers are used when other forms of pile driving lead to unacceptable levels of underwater noise, and should ensure that such underwater noise is appropriately minimized and should not exceed maximum noise thresholds typically applied by the Commission.⁷ Finally, to avoid bird strikes, all existing and newly installed glass on the restaurant patio would be frosted or otherwise treated to minimize bird strikes, as required by Special Condition 1(d).

3. Conclusion

treated with creosote have been shown to contribute polycyclic aromatic hydrocarbons (PAHs) to the marine environment at levels that may be toxic to marine organisms.

⁷ Such underwater noise should not exceed an accumulated 190 dB SEL as measured 5 meters from the source, and no time should peak dB SEL rise above 206 at 10 meters from the source.



As conditioned, the project adequately addresses biological resource and water quality issues and is consistent with the Coastal Act's biological resources and water quality protection policies.

C. Other

Coastal Act Section 30253 requires the project to assure long-term stability and structural integrity, and to minimize risk to life and property in areas of high geologic, flood, and fire hazard. The Commission recognizes that there is a certain amount of risk involved in development such as this that is located at the shoreline edge and that can be directly subject to erosion, violent storms, large waves, flooding, earthquakes, and other geologic hazards. These risks can be exacerbated by such factors as sea level rise and localized geography that can focus storm energy at particular stretches of coastline. The Commission has sought, through this review, to limit such risks, but they cannot be eliminated entirely, and this fact must be recognized and liabilities assumed by the Applicant accordingly. Specifically, the Commission's experience in evaluating proposed developments in areas subject to hazards has been that development has continued to occur despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, Applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see Special Condition 6).

The project is located within the jurisdiction of a series of other agencies that have some regulatory authority over the site. Accordingly, this approval is conditioned to ensure that the project (as conditioned and approved by this CDP) has received all necessary authorizations (or evidence that none are necessary) from the Morro Bay Harbor District, the California State Lands Commission, the U.S. Army Corps of Engineers, and the U.S. Coast Guard (see Special Condition 4).

Finally, Coastal Act Section 30620(c)(1) authorizes the Commission to require Applicants to reimburse the Commission for expenses incurred in processing CDP applications.⁸ Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes Special Condition 7 requiring reimbursement for any costs and attorneys fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit.

3. Conditions of Approval

⁸ See also California Code of Regulations Title 14 Section 13055(g).



A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two full size sets of final plans to the Executive Director for review and approval. The Final Plans shall be in substantial conformance with the plans submitted to the Coastal Commission (Site Plan prepared by Maul Associates, dated February 10, 2009 and Revised Plans prepared by C.P. Parker, dated May 17, 2011) except that they shall be revised and supplemented to comply with the following requirements:
 - a. **Project Modifications.** Final plans shall incorporate the modifications shown on the Revised Plans prepared by C.P. Parker, dated May 17, 2011.
 - b. **Elevations.** Final plans shall include elevations showing the entire project, including the patio, lateral access and floating docks.
 - c. **Public Access Boardwalk.** The public access boardwalk shall be located directly adjacent to the bay and shall provide for seamless connectivity to future public access boardwalks along properties north and south of the development site.
 - d. **Restaurant Patio.** All existing and newly installed windows shall be frosted, partially-frosted or otherwise treated with visually permeable barriers that are designed to prevent bird strikes.
 - e. **Non-Native and Invasive Plant Species Prohibited.** Plans shall identify all plant materials to be used for landscape purposes, and all irrigation systems designed to maintain site landscaping.



Landscaped areas shall consist only of native plants of local stock that are non-invasive. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the property. Plans shall include provisions to ensure that all site landscaping is maintained in its approved state in perpetuity.

- f. Lighting.** The location, type, and wattage of all light fixtures (including catalog sheets for each fixture) shall be illustrated. All exterior lighting shall be designed and located so that only the intended area is illuminated and off-site glare is prevented. All lighting shall be cutoff style fixtures that are directed downward to prevent glare on adjacent and surrounding areas (i.e., Morro Bay), and shall be limited to the maximum extent feasible while still providing for public safety. Lights shall have solid sides and reflectors to further reduce lighting impacts, and shall be placed on a switch or timer to turn them off when not needed during the late evening.
- g. Design.** The plans shall clearly identify all measures that will be applied to ensure that the project design, including all structures and including all other project elements within the public view (e.g., walkways, paved areas, railings, benches, tables, chairs, lighting, signs, landscaping, etc.), emulates Morro Bay Embarcadero aesthetics, including use of a maritime theme and pedestrian-oriented form and scale. Plans shall clearly identify all publicly visible structural elements, materials, and finishes (including through site plans and elevations, materials palettes and representative photos, product brochures, etc.). The existing street sign shall remain, and the materials used for the reconstructed restaurant patio shall be retained to the maximum extent feasible, or replaced with similar materials.

The Permittee shall undertake development in accordance with the approved Final Plans.

- 2. Public Access Management Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit for Executive Director review and approval two sets of full-scale public access management plans (Access Plans). The Access Plans shall clearly describe the manner in which general public access associated with the approved project is to be managed and provided, with the objective of maximizing public access to the public access areas of the site (including all site walkways (including the lateral access way along the bayfront and the vertical access way through the building), benches, boardwalks, stairs, gangways, and the floating docks). The Access Plans shall be substantially in conformance with the public access portion of the plans submitted to the Coastal Commission, except as modified by these special conditions, and shall at a minimum include the following:
 - a. Clear Depiction of Public Access Areas and Amenities.** All public access areas and amenities, including all of the areas and amenities described above, shall be clearly identified as such on the Access Plans (including with hatching and closed polygons so that it is clear what areas are available for public access use).



- b. Floating Docks.** The floating docks shall be publicly available for either short-term or long-term use by recreational or commercial boats. Signs discouraging the public from walking on the docks, and barriers to walking on the gangway or docks, such as ropes or gates, are prohibited. Residential use of the docks is prohibited. Any fees shall be as low as possible, commensurate with standard rates for the area.
- c. Amenities.** Public access amenities (such as benches, bicycle racks, trash and recycling receptacles, etc.) shall be retained or provided, including at a minimum, benches along the street sidewalk and in the vertical access way, and at appropriate locations along the lateral access way, where space allows.
- d. Public Access Signs/Materials.** The Access Plans shall identify all signs, handouts, brochures, and any other project elements that will be used to facilitate, manage, and provide public access to the approved project, including identification of all public education/interpretation features that will be provided on the site (educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided. The signs shall be designed so as to provide clear information without impacting public views and site character. At a minimum, public access directional signs shall be placed at the Embarcadero Road entrance to the vertical access, at the intersection of the lateral access boardwalk with the vertical access, at both ends of the lateral access way, and along the lateral access way. All directional signs shall include the Commission's access program "feet" logo and the California Coastal Trail emblem. At a minimum, at least one public access interpretive sign (appropriate to Morro Bay issues, information, and history) shall be located at an appropriate location along the lateral access way, and at least one public access interpretive sign specific to the history of the Salt Building shall be placed near the streetside entrance to the vertical access way.
- e. No Public Access Disruption.** Development and uses within the public access areas that disrupt and/or degrade public access (including areas set aside for private uses, barriers to public access (furniture, planters, temporary structures, private use signs, ropes, gates, etc.) shall be prohibited. The public use areas shall be maintained in a manner that maximizes public use and enjoyment.
- f. Public Access Use Hours.** All public access areas and amenities shall be available to the general public free of charge during at least daylight hours (i.e., one hour before sunrise to one hour after sunset), and during at least all non-daylight hours when the retail components of the approved project are open. The Access Plans shall provide for 24-hours per day access to the lateral and vertical access features once connectivity is provided via the lateral access boardwalk to either the upcoast or downcoast lateral access ways.
- g. Public Access Amenities Provided Prior to Occupancy.** All public access components of the approved project shall be constructed and ready for use prior to reoccupancy of the restaurant portion of the project.
- h. Public Access Areas and Amenities Maintained.** The public access components of the project shall be maintained in their approved state in perpetuity.



The Permittee shall undertake development in accordance with the approved Public Access Plan, which shall govern all general public access to the site pursuant to this coastal development permit.

- 3. Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:
 - a. Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and Morro Bay resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
 - b. Construction Methods.** The Construction Plan shall specify the construction methods to be used, including all methods to be used to keep the construction areas separated from bay and public recreational use areas (including using unobtrusive fencing (or equivalent measures) to delineate construction areas).
 - c. Construction BMPs.** The Construction Plan shall also identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: (a) silt fences, straw wattles, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to the bay; (b) equipment washing, refueling, and/or servicing shall take place at least 50 feet from the bay. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site; (c) the construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site); and (d) all erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
 - d. Construction Site Documents.** The Construction Plan shall provide that copies of the signed coastal development permit and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the coastal development permit and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
 - e. Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact



information (i.e., address, phone numbers, etc.) including, at a minimum, a telephone number that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the job site where such contact information is readily visible from public viewing areas, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the name, phone number, and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

- f. Pilings.** The new pilings and piling sleeve shall be made from steel. Pilings shall be installed using a vibratory hammer. Construction barges shall be floating at all times and shall only operate at tides high enough so that the barge does not rest against the bottom of the bay.
- g. Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan.

- 4. Other Agency Approval.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittee shall submit to the Executive Director written evidence that all necessary permits, permissions, approvals, and/or authorizations for the approved project have been granted by the Morro Bay Harbor District, the California State Lands Commission, the U.S. Army Corps of Engineers, and the U.S. Coast Guard. Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is necessary.
- 5. Boat Slip Parameters.** All boat slips shall be used for commercial and recreational fishing vessels, commercial and recreational passenger vessels, or commercial service vessels only. The use of the docks and slips for private residential use is prohibited.
- 6. Assumption of Risk, Waiver of Liability and Indemnity Agreement.** The Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunamis, tidal scour, coastal flooding, and the interaction of same; (ii) to assume the risks to the Permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; and (v) that any adverse effects to property caused by the



permitted project shall be fully the responsibility of the property owner.

7. **Liability for Costs and Attorneys Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

C. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Morro Bay, acting as the lead CEQA agency, conducted an environmental review for the proposed project as required by CEQA and issued a Negative Declaration with Mitigations.

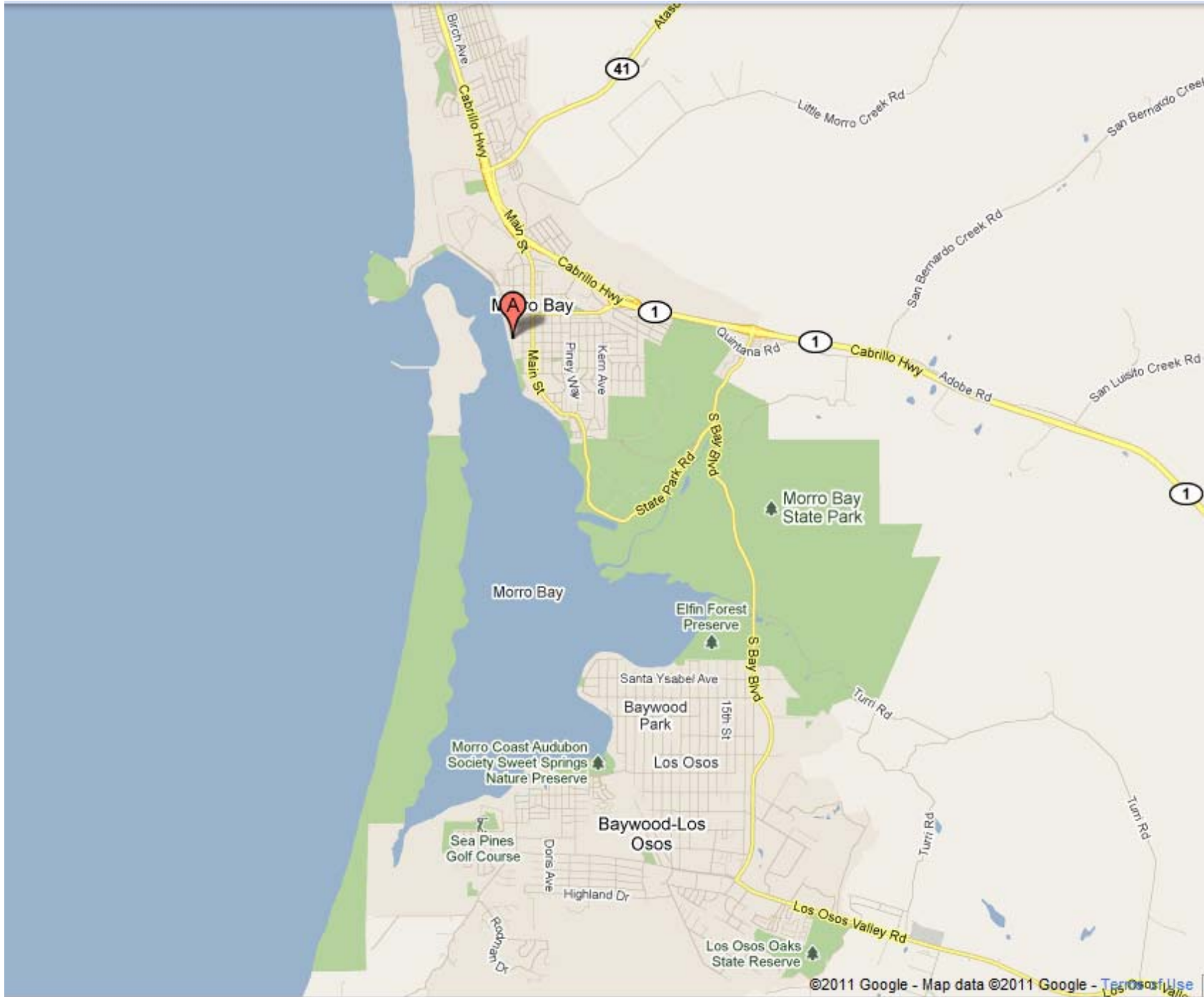
The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



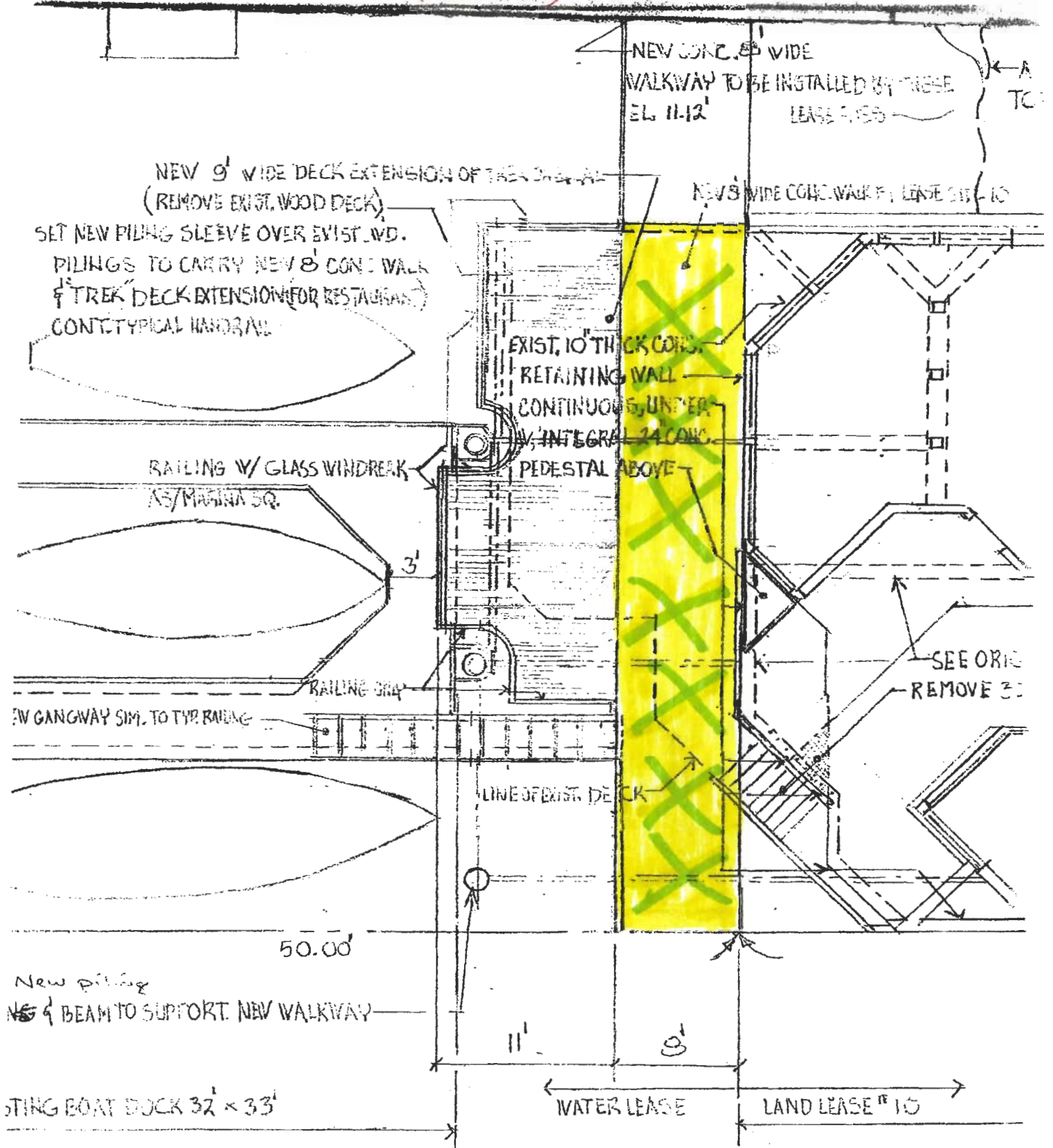
avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).





3-10-036 (Salt Building Remodel)
Exhibit A

PROPOSED BOARDWALK
(GREEN)

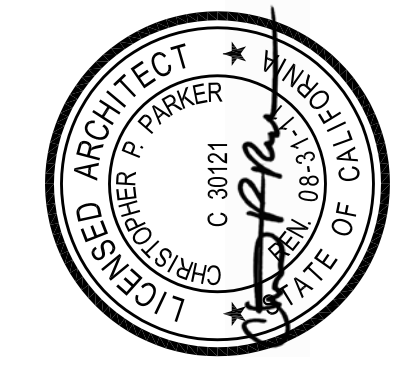


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 (805) 772-5700

STAMPS



CONSULTANTS

PROJECT

H.M.S. SALT BUILDING

PUBLIC BOARDWALK ADDITION

571 EMBARCADERO
 MORRO BAY, CALIF. 93442

DRAWING PHASE

-
 -
 -

Project No.	11-112
Drawn By	CPP
Dwg. Date	05/17/11
Updated	-
Scale	AS NOTED

REVISIONS

SHEET TITLE

SITE PLAN

SHEET NO.

A1.1

EXISTING AQUARIUM BLDG. (2-STORYS) AND DOCK

PROPOSED VISITOR SERVING VACATION RENTALS 2ND FLOOR
 1ST FLOOR RETAIL SPACE NEXT TO CITY SIDEWALK AND GARAGE PARKING

591 EMBARCADERO

PUBLIC WALKWAY SLOPES DOWN 4.73'

575 EMBARCADERO

PROPOSED VISITOR SERVING VACATION RENTALS 2ND FLOOR
 1ST FLOOR RETAIL SPACE NEXT TO CITY SIDEWALK AND GARAGE PARKING

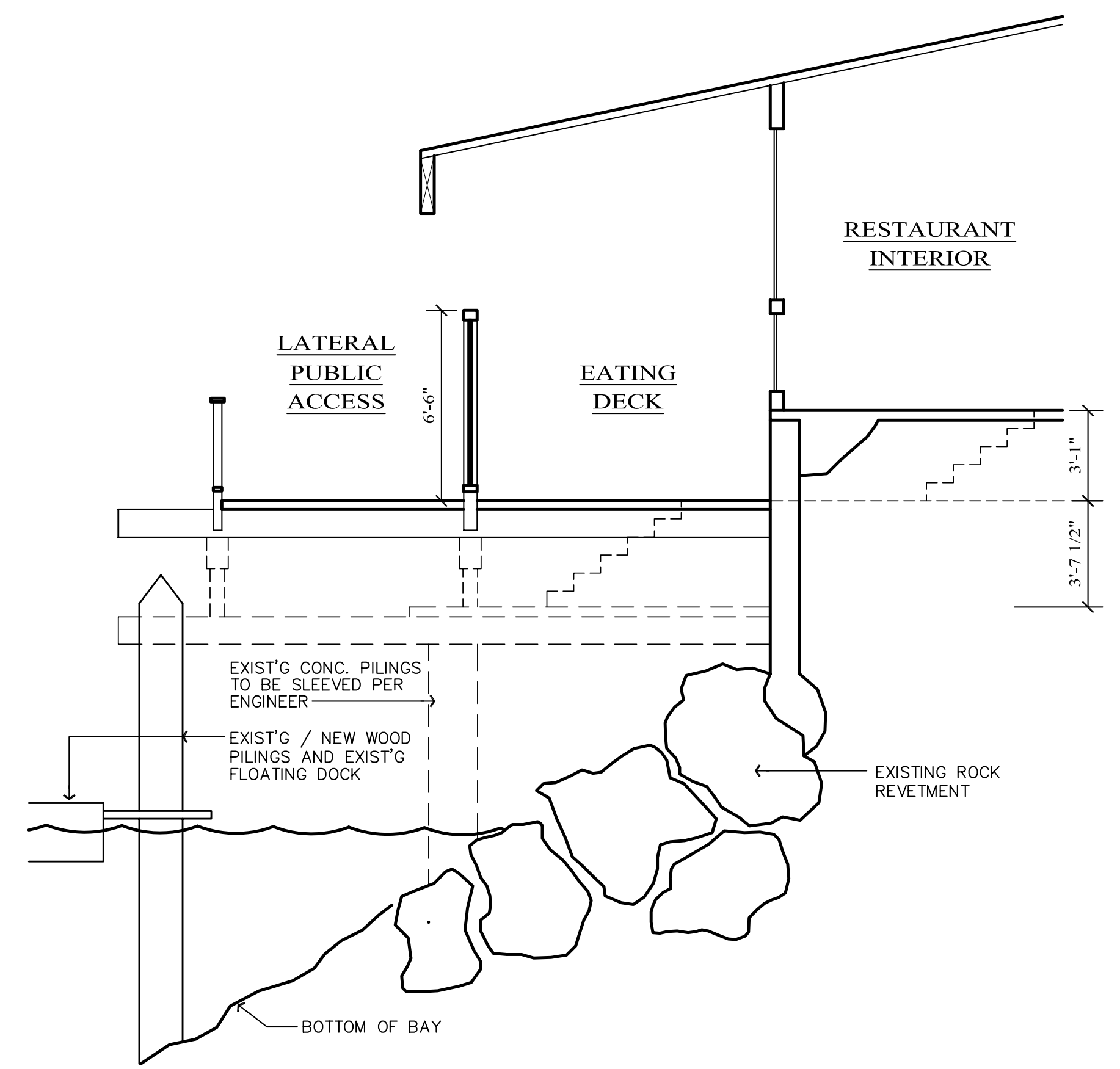
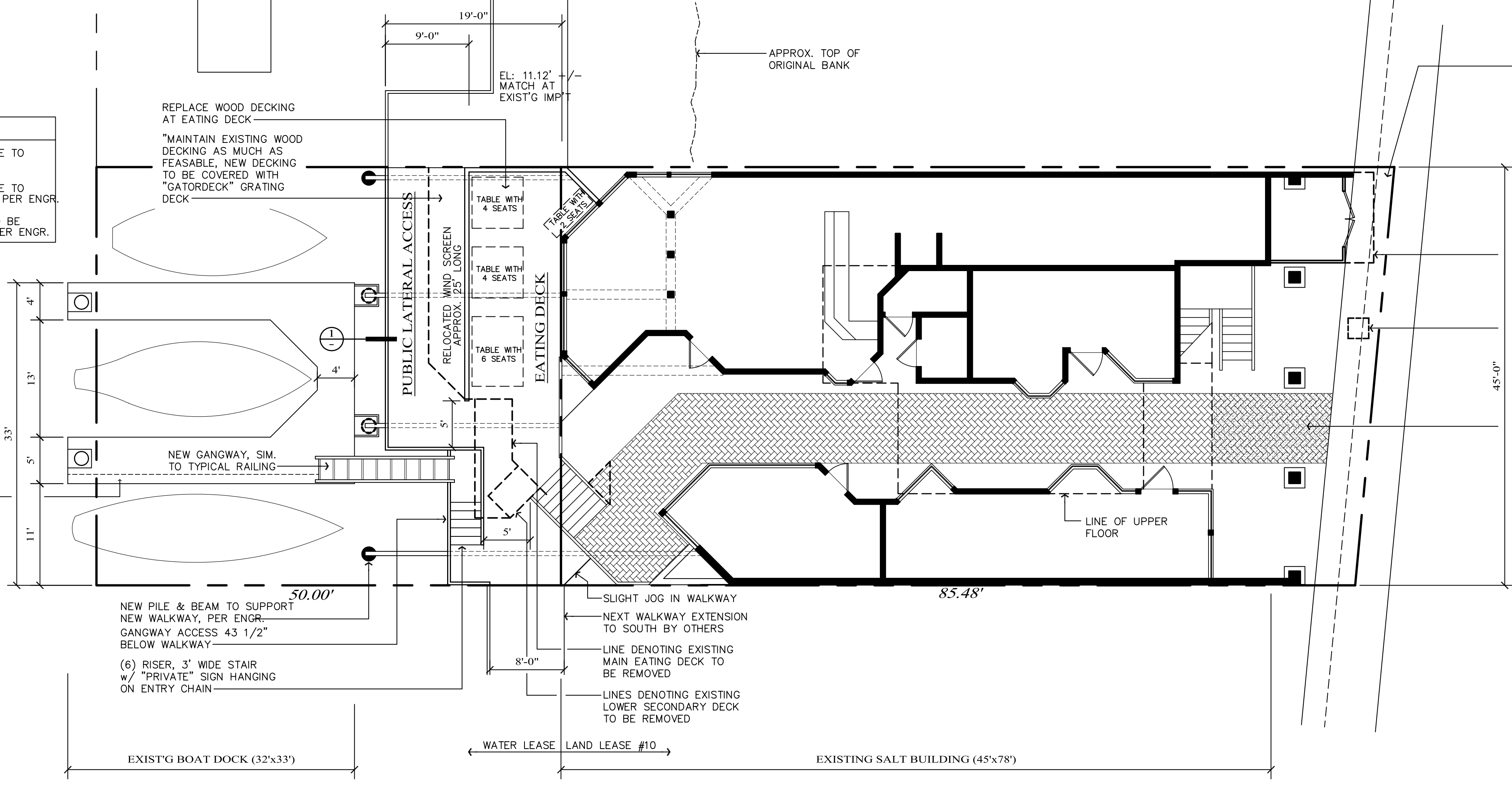
APPROX. TOP OF ORIGINAL BANK

NEW WALKWAY TO BE INSTALLED BY 575 & 591 EMBARCADERO

REPLACE WOOD DECKING AT EATING DECK
 "MAINTAIN EXISTING WOOD DECKING AS MUCH AS FEASIBLE, NEW DECKING TO BE COVERED WITH "GATORDECK" GRATING DECK"

PILE LEGEND

○	EXISTING PILE TO REMAIN
⊙	EXISTING PILE TO BE SLEEVED PER ENGR.
●	NEW PILE TO BE INSTALLED PER ENGR.



1 SECTION

SCALE: 1/4" = 1'-0"

EXISTING SIDEWALK TO BE WIDENED TO 8' AND TO BLEND INTO NEW SIDEWALK FOR PROPERTY TO THE NORTH, AS SHOWN EL. 15.89' +/-, MATCH EXIST'G

LEASE SITE #10 PROPOSED IMPROVEMENTS TO BE MADE TO FIT WITH AN MATCH WITH THOSE FOR 575 AND 591 EMBARCADERO (WHICH ARE SCHEDULED TO BE CONSTRUCTED FIRST)

REMOVE PORTION OF TRASH ENCLOSURE TO MAKE ROOM FOR 8' SIDEWALK

REMOVE SIGN SUPPORT COLUMN AND RELOCATE

45.0' LEASE SITE #10 571 EMBARCADERO

REMOVE SECTION OF PAVERS AND RE-SET TO TRANSITION WITH NEW 8' SIDEWALK

OTHER NOTES:
 OWNER WILL DEVELOP AN OVERALL VISUAL MAINTENANCE PLAN TO MAKE THE ENTRY BUILDING AND GROUNDS TO LOOK LIKE NEW. THE PLAN WILL INCLUDE PAINTING, CLEANUP, SANDING & SEALING BRICK PAVERS, LANDSCAPE, ETC.

SITE PLAN

3-10-036 (Salt Building Remodel) Exhibit C

SCALE: 1/8" = 1'-0"





